

Introduced by Senator Padilla

February 19, 2010

An act to amend Section 1714.21 of the Civil Code, and to repeal Section 1797.196 of the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1281, as introduced, Padilla. Emergency medical services: defibrillators.

Existing law authorizes the Emergency Medical Services Authority to establish minimum training and other standards for the use of automatic external defibrillators (AED) and requires persons or entities that acquire the AEDs to comply with maintenance, testing, and training requirements, which are scheduled to change on January 1, 2013. Existing law sets forth tenant notice and other requirements for building owners in which an AED is placed.

This bill would repeal those provisions.

Existing law provides any person who, in good faith and not for compensation, renders emergency care or treatment by the use of an AED at the scene of an emergency is not liable for any civil damages resulting from any acts or omissions in rendering the emergency care. Under existing law a person or entity that acquires an AED for emergency use pursuant to that provision is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care by use of an AED, if that person or entity has complied with the above-specified provisions of law.

This bill would delete the requirement that persons comply with those provisions that would be repealed by this bill. The bill would also make related legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) Out-of-hospital sudden cardiac arrest results in the death of
3 approximately 164,600 persons per year in the United States and
4 approximately 20 percent of those sudden cardiac arrests are caused
5 by sudden ventricular fibrillation that occurs in the presence of
6 witnesses.

7 (b) In the first minutes of collapse, many victims of witnessed
8 sudden cardiac arrest demonstrate an abnormal heart rhythm called
9 ventricular fibrillation, which causes the heart to quiver so that it
10 does not pump blood effectively. To return the victim's heart to a
11 normal rhythm, use of an automated external defibrillator (AED)
12 is required.

13 (c) AEDs are extremely accurate, user friendly computerized
14 devices with voice and audio prompts that guide the user through
15 the critical steps of operation.

16 (d) Early cardiopulmonary resuscitation (CPR) and rapid
17 defibrillation combined with early advanced care dramatically
18 increases survival rates for a witnessed cardiac arrest.

19 (e) Clinical studies have shown the survival rate from sudden
20 cardiac arrest increases from 50 to 70 percent when an AED is
21 available and used on a victim within three to five minutes after
22 the onset of a cardiac arrest.

23 (f) Removing barriers to the use of AEDs will result in more
24 opportunities for Good Samaritan acts and saved lives.

25 (g) More businesses will install these life-saving devices if the
26 threat of liability is removed.

27 (h) Increasing access to AEDs will save lives.

28 SEC. 2. Section 1714.21 of the Civil Code is amended to read:
29 1714.21. (a) For purposes of this section, the following
30 definitions shall apply:

31 (1) "AED" or "defibrillator" means an automated or automatic
32 external defibrillator.

33 (2) "CPR" means cardiopulmonary resuscitation.

34 (b) Any person who, in good faith and not for compensation,
35 renders emergency care ~~or treatment~~ by the use of an AED at the

1 scene of an emergency is not liable for any civil damages resulting
2 from any acts or omissions in rendering the emergency care.

3 (c) A person or entity who provides CPR and AED training to
4 a person who renders emergency care pursuant to subdivision (b)
5 is not liable for any civil damages resulting from any acts or
6 omissions of the person rendering the emergency care.

7 (d) A person or entity that acquires an AED for emergency use
8 pursuant to this section is not liable for any civil damages resulting
9 from any acts or omissions in the rendering of the emergency care
10 by use of an AED, ~~if that person or entity has complied with~~
11 ~~subdivision (b) of Section 1797.196 of the Health and Safety Code.~~

12 (e) A physician who is involved with the placement of an AED
13 and any person or entity responsible for the site where an AED is
14 located is not liable for any civil damages resulting from any acts
15 or omissions of a person who renders emergency care pursuant to
16 subdivision (b), ~~if that physician, person, or entity has complied~~
17 ~~with all of the requirements of Section 1797.196 of the Health and~~
18 ~~Safety Code that apply to that physician, person, or entity.~~

19 (f) The protections specified in this section do not apply in the
20 case of personal injury or wrongful death that results from the
21 gross negligence or willful or wanton misconduct of the person
22 who renders emergency care or treatment by the use of an AED.

23 (g) Nothing in this section shall relieve a manufacturer, designer,
24 developer, distributor, installer, or supplier of an AED or
25 defibrillator of any liability under any applicable statute or rule of
26 law.

27 SEC. 3. Section 1797.196 of the Health and Safety Code, as
28 amended by Section 2 of Chapter 85 of the Statutes of 2006, is
29 repealed.

30 ~~1797.196. (a) For purposes of this section, “AED” or~~
31 ~~“defibrillator” means an automated or automatic external~~
32 ~~defibrillator.~~

33 ~~(b) In order to ensure public safety, any person who acquires~~
34 ~~an AED shall do all of the following:~~

35 ~~(1) Comply with all regulations governing the training, use, and~~
36 ~~placement of an AED.~~

37 ~~(2) Notify an agent of the local EMS agency of the existence,~~
38 ~~location, and type of AED acquired.~~

39 ~~(3) Ensure all of the following:~~

1 ~~(A) That expected AED users complete a training course in~~
2 ~~cardiopulmonary resuscitation and AED use that complies with~~
3 ~~regulations adopted by the Emergency Medical Services (EMS)~~
4 ~~Authority and the standards of the American Heart Association or~~
5 ~~the American Red Cross.~~

6 ~~(B) That the defibrillator is maintained and regularly tested~~
7 ~~according to the operation and maintenance guidelines set forth~~
8 ~~by the manufacturer, the American Heart Association, and the~~
9 ~~American Red Cross, and according to any applicable rules and~~
10 ~~regulations set forth by the governmental authority under the~~
11 ~~federal Food and Drug Administration and any other applicable~~
12 ~~state and federal authority.~~

13 ~~(C) That the AED is checked for readiness after each use and~~
14 ~~at least once every 30 days if the AED has not been used in the~~
15 ~~preceding 30 days. Records of these periodic checks shall be~~
16 ~~maintained.~~

17 ~~(D) That any person who renders emergency care or treatment~~
18 ~~on a person in cardiac arrest by using an AED activates the~~
19 ~~emergency medical services system as soon as possible, and reports~~
20 ~~any use of the AED to the licensed physician and to the local EMS~~
21 ~~agency.~~

22 ~~(E) That there is involvement of a licensed physician in~~
23 ~~developing a program to ensure compliance with regulations and~~
24 ~~requirements for training, notification, and maintenance.~~

25 ~~(e) A violation of this provision is not subject to penalties~~
26 ~~pursuant to Section 1798.206.~~

27 ~~(d) This section shall become operative on January 1, 2013.~~

28 SEC. 4. Section 1797.196 of the Health and Safety Code, as
29 amended by Section 1 of Chapter 85 of the Statutes of 2006, is
30 repealed.

31 ~~1797.196. (a) For purposes of this section, “AED” or~~
32 ~~“defibrillator” means an automated or automatic external~~
33 ~~defibrillator.~~

34 ~~(b) In order to ensure public safety, any person or entity that~~
35 ~~acquires an AED is not liable for any civil damages resulting from~~
36 ~~any acts or omissions in the rendering of the emergency care under~~
37 ~~subdivision (b) of Section 1714.21 of the Civil Code, if that person~~
38 ~~or entity does all of the following:~~

39 ~~(1) Complies with all regulations governing the placement of~~
40 ~~an AED.~~

1 ~~(2) Ensures all of the following:~~

2 ~~(A) That the AED is maintained and regularly tested according~~
3 ~~to the operation and maintenance guidelines set forth by the~~
4 ~~manufacturer, the American Heart Association, and the American~~
5 ~~Red Cross, and according to any applicable rules and regulations~~
6 ~~set forth by the governmental authority under the federal Food and~~
7 ~~Drug Administration and any other applicable state and federal~~
8 ~~authority.~~

9 ~~(B) That the AED is checked for readiness after each use and~~
10 ~~at least once every 30 days if the AED has not been used in the~~
11 ~~preceding 30 days. Records of these checks shall be maintained.~~

12 ~~(C) That any person who renders emergency care or treatment~~
13 ~~on a person in cardiac arrest by using an AED activates the~~
14 ~~emergency medical services system as soon as possible, and reports~~
15 ~~any use of the AED to the licensed physician and to the local EMS~~
16 ~~agency.~~

17 ~~(D) For every AED unit acquired up to five units, no less than~~
18 ~~one employee per AED unit shall complete a training course in~~
19 ~~cardiopulmonary resuscitation and AED use that complies with~~
20 ~~the regulations adopted by the Emergency Medical Service~~
21 ~~Authority and the standards of the American Heart Association or~~
22 ~~the American Red Cross. After the first five AED units are~~
23 ~~acquired, for each additional five AED units acquired, one~~
24 ~~employee shall be trained beginning with the first AED unit~~
25 ~~acquired. Acquirers of AED units shall have trained employees~~
26 ~~who should be available to respond to an emergency that may~~
27 ~~involve the use of an AED unit during normal operating hours.~~

28 ~~(E) That there is a written plan that describes the procedures to~~
29 ~~be followed in the event of an emergency that may involve the use~~
30 ~~of an AED, to ensure compliance with the requirements of this~~
31 ~~section. The written plan shall include, but not be limited to,~~
32 ~~immediate notification of 911 and trained office personnel at the~~
33 ~~start of AED procedures.~~

34 ~~(3) When an AED is placed in a building, building owners shall~~
35 ~~ensure that tenants annually receive a brochure, approved as to~~
36 ~~content and style by the American Heart Association or American~~
37 ~~Red Cross, which describes the proper use of an AED, and also~~
38 ~~ensure that similar information is posted next to any installed AED.~~

1 ~~(4) When an AED is placed in a building, no less than once a~~
2 ~~year, building owners shall notify their tenants as to the location~~
3 ~~of AED units in the building.~~

4 ~~(5) When an AED is placed in a public or private K-12 school,~~
5 ~~the principal shall ensure that the school administrators and staff~~
6 ~~annually receive a brochure, approved as to contents and style by~~
7 ~~the American Heart Association or the American Red Cross, that~~
8 ~~describes the proper use of an AED. The principal shall also ensure~~
9 ~~that similar information is posted next to every AED. The principal~~
10 ~~shall, at least annually, notify school employees as to the location~~
11 ~~of all AED units on the campus. The principal shall designate the~~
12 ~~trained employees who shall be available to respond to an~~
13 ~~emergency that may involve the use of an AED during normal~~
14 ~~operating hours. As used in this paragraph, “normal operating~~
15 ~~hours” means during the hours of classroom instruction and any~~
16 ~~school-sponsored activity occurring on school grounds.~~

17 ~~(e) Any person or entity that supplies an AED shall do all of~~
18 ~~the following:~~

19 ~~(1) Notify an agent of the local EMS agency of the existence,~~
20 ~~location, and type of AED acquired.~~

21 ~~(2) Provide to the acquirer of the AED all information governing~~
22 ~~the use, installation, operation, training, and maintenance of the~~
23 ~~AED.~~

24 ~~(d) A violation of this provision is not subject to penalties~~
25 ~~pursuant to Section 1798.206.~~

26 ~~(e) The protections specified in this section do not apply in the~~
27 ~~case of personal injury or wrongful death that results from the~~
28 ~~gross negligence or willful or wanton misconduct of the person~~
29 ~~who renders emergency care or treatment by the use of an AED.~~

30 ~~(f) Nothing in this section or Section 1714.21 may be construed~~
31 ~~to require a building owner or a building manager to acquire and~~
32 ~~have installed an AED in any building.~~

33 ~~(g) This section shall remain in effect only until January 1, 2013,~~
34 ~~and as of that date is repealed, unless a later enacted statute, that~~
35 ~~is enacted before January 1, 2013, deletes or extends that date.~~